

REMARKS

The Examiner is thanked for the clearly stated action. This communication is filed in response to the non-final Office Action having a mailing date of May 13, 2010, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire August 13, 2010. Fourteen (14) claims, including four (4) independent claims, were paid for in the application. Claims 1 and 13 are currently amended and claims 12 and 14 are canceled. No new matter has been added to the application, and all claims are believed in condition for allowance. No fee for additional claims is due by way of this Amendment. The Director is authorized to charge additional fees due by way of this Amendment only, or credit any overpayment, to our Deposit Account No. 19-1090. Upon entry of the amendments, claims 1-11 and 13 remain pending.

Claims 1-11 and 13 are currently rejected in the Office Action under the first paragraph of 35 U.S.C. § 112. Claims 1, 3, 8, 10, 11 and 13 are currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003-0162495 to Yonemoto et al ("Yonemoto") in view of U.S. Patent No. 7,042,905 to Johnson ("Johnson"). Claims 2, 5 and 6 are currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent Application Publication No. 2004-0114522 to Friesen et al ("Friesen"). Claim 4 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent Application Publication No. 2005-0020240 to Minter et al ("Minter"). Claim 7 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent No. 6,614,797 to Hippelainen et al ("Hippelainen"). Claim 9 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of U.S. Application Publication No. 2006-0031749 to Schramm et al ("Schramm").

While applicants respectfully disagree that the cited and applied references teach or suggest the claimed subject matter, clarifying amendments have been made to claims 1 and 13. For at least the reasons below, applicants respectfully request reconsideration and allowance of the pending claims.

Rejections Under 35 U.S.C. § 112, first paragraph

Claims 1-11 and 13 are currently rejected in the Office Action under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement. In particular, the Office Action contends that the control over distribution priorities is according to media classification only and there is no disclosure of assigning priorities to the receiving areas. (See Office Action, pages 2-3.) Further, the Office Action contends that the specification does not disclose "each of the distribution priorities is assigned to at least one of the plurality of receiving areas." (See Office Action, pages 2-3.)

Claim 1 as amended, recites, "a media distribution setting section for associating the respective control information of the plurality of media data items with distribution priorities that correspond to a respective classification of the plurality of media data items" and "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas."

Claim 13 as also amended, recites, "associating a plurality of control information with the distribution priorities" and "distributing the plurality of media data items read from the memory and the control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas."

Amended claims 1 and 13 may find support, for example, at paragraph [0053] and [0067]-[0071] of the specification and Figures 5 and 7 as seen in the present published application (U.S. Patent Application Publication No. 2006/0031513A1).

Applicants assert that claims 1 and 13, and dependent claims 2-11, contain subject matter which is described and enabled in the specification. Therefore, applicants respectfully

request withdrawal of the rejections under first paragraph of 35 U.S.C. § 112 of claims 1-11 and 13.

Rejections Under 35 U.S.C. § 103

Claims 1-11 and 13 are rejected in the Office Action under 35 U.S.C. § 103(a) as allegedly unpatentable as obvious over various combinations of Yonemoto, Johnson, Friesen, Minter, Hippelainen, and Schramm as summarized above. A *prima facie* case of obviousness may be established under section 103 if "all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007); M.P.E.P. § 2143.A. Because claims 1-11 and 13 recite combinations of features neither taught nor suggested in Yonemoto, either alone or when combined with Johnson, Friesen, Minter, Hippelainen and Schramm, a *prima facie* case of obviousness has not been made.

Claims 1-11

While applicants respectfully disagree that the cited and applied references teach or even suggest all of the elements as previously recited in claims 1-11 and 13, clarifying amendments have been made to claim 1. As amended, claim 1 recites, among other things, "a media distribution setting section for associating the respective control information of the plurality of media data items with distribution priorities that correspond to a respective classification of the plurality of media data items" and "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas."

In the Office Action, it is asserted that Yonemoto teaches each and every element recited in claim 1 except that Yonemoto fails to teach "a plurality of receiving areas associated

with a plurality of bearer channels; wherein each of the distributed priorities is assigned to at least one of the plurality of receiving areas.” (See Office Action, pages 4-5.) Further, the Office Action asserts that Johnson at column 1, lines 29-33 and column 7, lines 15-20 remedies this deficiency of Yonemoto. (See Office Action, pages 4-5.)

The cited portions of Johnson purportedly disclose that “[s]pectral bearer channel allocations would be rearranged based on a demand pattern matched to traffic patterns.” (See Johnson, Col. 1, lines 29-33.) Where “[t]he base station systems 500 are placed strategically to direct radiant energy to cells within a coverage area.” (See Johnson, Col. 7, lines 15-20.) That is, it is assumed that Johnson, by strategically placing base station systems and allocating spectral bearer channel allocations based on demand pattern matched to traffic patterns, somehow teaches or suggests “a plurality of receiving areas associated with a plurality of bearer channels; wherein each of the distributed priorities is assigned to at least one of the plurality of receiving areas.”

Not only do applicants submit that Johnson fails to teach the previously recited “plurality of receiving areas” and that “each of the distributed priorities is assigned to at least one of the plurality of receiving areas,” but that Johnson also fails to teach “a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas,” as recited in amended claim 1. (Emphasis added.) There is no teaching or suggestion in either Yonemoto or Johnson of receiving areas, distribution priorities, and transmission distances that are associated with different bearer channels.

For at least the reasons discussed above, neither Yonemoto nor Johnson, either alone or in combination, teach or suggest each and every element recited in amended claim 1.

As a result, a *prima facie* case of obviousness has not been established. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claim 1.

Claims 3, 8, 10 and 11 depend from claim 1, and thus, each and every element recited in claim 1 is also found in dependent claims 3, 8, 10 and 11. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto and Johnson also fail to teach each and every element recited in claims 3, 8, 10 and 11. Accordingly, a *prima facie* case of obviousness has also not been established against claims 3, 8, 10 and 11. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claims 3, 8, 10 and 11.

Claim 13

Similar to claim 1, claim 13 is also rejected under § 103(a) as allegedly obvious over Yonemoto in view of Johnson. (*See* Office Action, page 7.) In particular, that claim 13 “is a method claim reciting the essential limitations of claim 1” and is therefore rejected using the same reasons as argued for claim 1. *Id.* As already discussed above for claim 1, since neither Yonemoto nor Johnson teach at least “a plurality of receiving areas” and that “each of the distributed priorities is assigned to at least one of the plurality of receiving areas,” the cited references also do not teach or suggest “associating a plurality of control information with the distribution priorities” and “distributing the plurality of media data items read from the memory and the control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas,” as recited in amended claim 13.

As such, for at least the reasons discussed above with respect to claim 1, Yonemoto and Johnson also fail, either alone or in combination, to teach or suggest all of the elements recited in claim 13. Accordingly, a *prima facie* case of obviousness has also not been established against claim 13. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claim 13.

Claims 2, 5 and 6

Claims 2, 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of Friesen. Claims 2, 5 and 6 depend from claim 1, and thus, each and every element recited in claim 1 is also found in dependent claims 2, 5, and 6. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto and Johnson also fail to teach each and every element of claims 2, 5 and 6.

Further, Friesen purportedly discloses that distribution priorities are assigned based on a bandwidth. (*See* Friesen, paragraph [0006].) Assigning distribution priorities based on a bandwidth, however, does not teach or suggest "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas," as recited in amended claim 1. (Emphasis added.)

Therefore, Friesen fails to remedy any deficiencies of Yonemoto and Johnson. Accordingly, a *prima facie* case of obviousness has also not been established against claims 2, 5 and 6. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claims 2, 5 and 6.

Claim 4

Claim 4 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of Minter. Claim 4 depends from claim 1, and thus, each and every element recited in claim 1 is also found in dependent claim 4. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto and Johnson also fail to teach each and every element of claim 4.

For example, Minter purportedly discloses that different data items are distributed on a plurality of bearer channels. (*See* Minter, paragraph [0021].) However, distributing data of a plurality of bearer channels is not "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different

transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas," as recited in amended claim 1. (Emphasis added.)

Therefore, Minter fails to remedy any deficiencies of Yonemoto and Johnson. Accordingly, a *prima facie* case of obviousness has also not been established against claim 4. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claim 4.

Claim 7

Claim 7 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of Hippelainen. Claim 7 depends from claim 1, and thus, each and every element recited in claim 1 is also found in dependent claim 7. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto and Johnson also fail to teach each and every element of claim 4.

Hippelainen purportedly discloses that data packets are given high priorities over control packets. (*See* Hippelainen, paragraph [0164].) However, giving high priorities to data packets over control packets does not teach or suggest "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas," as recited in amended claim 1. (Emphasis added.)

Therefore, Hippelainen fails to remedy any deficiency of Yonemoto and Johnson. Accordingly, a *prima facie* case of obviousness has also not been established against claim 7. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claim 7.

Claim 9

Claim 9 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Schramm. Claim 9 depends from claim 1, and thus, each and every element recited in claim 1 is also found in dependent claim 9. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto also fail to teach each and every element of claim 9.

Schramm also purportedly discloses that program control information comprises a bit rate information. (*See* Schramm, Figure 11.) However, bit rate information is not the same as "a distributing section for distributing the plurality of media data items and the respective control information to a plurality of receiving areas over different transmission distances according to the distribution priorities, each of the transmission distances being associated with a different bearer channel and each of the bearer channels being associated with at least one of the plurality of receiving areas," as recited in amended claim 1. (Emphasis added.)

Therefore, Schramm fails to remedy any deficiency of Yonemoto (or Johnson). Accordingly, a *prima facie* case of obviousness has also not been established against claim 9. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claim 9.

CONCLUSION

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. A number of clarifying amendments have also been made to the above claim set. Applicant does not acquiesce to each of the Examiner's rejections and to each of the Examiner's assertions regarding what the cited references show or teach, even if not expressly discussed. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

If the undersigned attorney has overlooked a relevant teaching in any of the references, the Examiner is requested to point out specifically where such teaching may be found. In light of the above amendments and remarks, applicant respectfully submits that all pending claims are allowable. Applicant, therefore, respectfully requests that the Examiner reconsider this application and timely allow all pending claims. The Examiner is encouraged to contact the undersigned attorney to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, the Examiner is encouraged to contact the undersigned attorney.

In light of the foregoing amendments and remarks, applicants assert that the claims of the present application recite combinations of features neither taught nor suggested by the cited references of record. Therefore, applicants respectfully request early and favorable action and allowance of all pending claims. If any further questions remain, the Examiner is invited to telephone applicant's attorney at the number listed below.

All of the claims remaining in the application are now clearly allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

/Joshua A. Kading/
Joshua A. Kading
Registration No. 59,261

JAK:jrh

701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Phone: (206) 622-4900
Fax: (206) 682-6031

1636332_1.DOC